



General Assembly

January Session, 2005

Committee Bill No. 5057

LCO No. 4311

* _____HB05057KIDHS_031505_____*

Referred to Committee on Select Committee on Children

Introduced by:
(KID)

**AN ACT CONCERNING THE DEPARTMENT OF CHILDREN AND
FAMILIES AND CHILD ABUSE OR NEGLECT PROCEEDINGS.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 17a-101k of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) The Commissioner of Children and Families shall maintain a
4 registry of [the] findings of abuse or neglect of children, as defined in
5 section 46b-120, as amended by this act, and reports received pursuant
6 to sections 17a-101a to 17a-101d, inclusive, and 17a-103 [, and shall
7 adopt regulations to implement the provisions of this section,
8 including] that conform to the provision of this section and due
9 process of law. The regulations adopted pursuant to subsection (f) of
10 this section shall provide for the use of the registry on a twenty-four-
11 hour daily basis to prevent or discover abuse of children and the
12 establishment of a hearing process for any appeal by a person of the
13 commissioner's determination that such person is responsible for the
14 abuse or neglect of a child pursuant to subsection (b) of section 17a-
15 101g, as amended by this act. The information contained in the registry
16 and the reports and any other information relative to child abuse,

17 wherever located, shall be confidential, subject to such statutes and
18 regulations governing their use and access as shall conform to the
19 requirements of federal law or regulations. Any violation of this
20 section or the regulations adopted by the commissioner under this
21 section shall be punishable by a fine of not more than one thousand
22 dollars or imprisonment for not more than one year.

23 [(b) Notwithstanding the provisions of subsection (a) of this section,
24 the Commissioner of Children and Families shall disclose to the
25 Commissioner of Social Services, or his designee, registry information
26 necessary for the evaluation of the temporary family assistance
27 program operated by the Department of Social Services.]

28 (b) Upon issuance of a recommended finding or substantiation of
29 abuse or neglect pursuant to subsection (b) of section 17a-101g, as
30 amended by this act, the commissioner shall immediately notify the
31 individual who is alleged to be culpable of the abuse or neglect of the
32 recommended finding. The notice shall be by certified mail, return
33 receipt requested and shall contain a short and plain statement of the
34 finding of abuse or neglect. The notice shall inform the individual of
35 the existence of the registry and of the commissioner's intention to
36 submit the individual's name for entry on the registry unless such
37 individual exercises his or her right to appeal the recommended
38 finding as provided in this section. The notice also shall inform the
39 individual of the potential adverse consequences of being listed on the
40 registry in regard to obtaining or retaining employment involving
41 direct contact with children and shall inform the individual of his or
42 her right to a mediation conference with the commissioner or the
43 commissioner's designee, as provided in this section, as well as the
44 individual's right to appeal any finding that remains after the
45 mediation conference has been concluded by seeking an expedited
46 administrative evidentiary hearing as provided in this section. The
47 notice shall include a written form for the individual to sign and
48 return, indicating if the individual will invoke the administrative
49 appeal procedure provided in this section.

50 (c) Except in cases of death, serious physical abuse or sexual abuse
51 as provided in sections 17a-101b and 17a-101j, the commissioner or the
52 commissioner's designee shall hold a requested mediation conference
53 with the individual against whom a recommended finding of abuse or
54 neglect has been made not later than thirty business days after notice
55 of the finding has been mailed. The individual may have legal counsel
56 and any person who has personal knowledge of the circumstances
57 concerning the finding of abuse or neglect present at the conference.
58 Prior to the conference, the individual shall have access to all relevant
59 documents regarding the finding of abuse or neglect within the
60 possession of the commissioner, as provided by subsection (m) of
61 section 17a-28. A guardian, parent or legal representative of the alleged
62 child victim may attend the conference. The purpose of the mediation
63 conference is for all parties to discuss the allegations of abuse or
64 neglect and for the individual to demonstrate, through documentation
65 or discussion with the individual or the individual's representative,
66 that the finding of abuse or neglect as defined in section 46b-120, as
67 amended by this act, is factually or legally deficient. The mediation
68 conference shall be recorded on audio or video tape and a copy of the
69 tape shall be made available to all parties upon request. If, as a result
70 of the mediation conference, the commissioner or the commissioner's
71 designee agrees that the finding of abuse or neglect is factually or
72 legally deficient, the commissioner shall so indicate in writing and
73 reverse the finding of abuse or neglect

74 (d) If, as a result of the mediation conference, the commissioner or
75 the commissioner's designee concludes that the finding of abuse or
76 neglect is factually and legally supportable, the commissioner shall
77 designate the finding as "indicated,". The Commissioner's decision to
78 reverse or maintain the finding as indicated shall be communicated not
79 later than three business days to the individual by certified mail. The
80 notice shall be in conformance with section 4-177, and the hearing shall
81 be scheduled not later than thirty days following the decision of the
82 commissioner on the indicated finding of abuse or neglect, except for
83 good cause shown by either party. The prehearing procedure and the

84 hearing shall be conducted in accordance with sections 4-177 to 4-181a,
85 inclusive; or the commissioner shall designate an individual who is not
86 an employee of the Department of Children and Families as a hearing
87 officer in this matter. At the hearing, the individual may be
88 represented by legal counsel. The burden of proof shall be on the
89 commissioner to prove that the indicated finding is supported by a fair
90 preponderance of the evidence submitted at the hearing. Not later than
91 thirty days after the conclusion of the hearing, the hearing officer shall
92 issue a written decision to either reverse or uphold the indicated
93 finding. The decision shall contain findings of fact and a conclusion of
94 law on each issue raised at the hearing.

95 (e) An individual aggrieved by the decision of the hearing officer
96 may appeal to the Superior Court in accordance with the provisions of
97 section 4-183.

98 (f) The Commissioner of Children and Families shall adopt
99 regulations, in accordance with the provisions of chapter 54, to
100 implement the provisions of this section.

101 (g) Following the issuance of a decision to uphold the indicated
102 finding, the Commissioner of Children and Families shall disclose to
103 the Commissioner of Public Health, and the Commissioner of Social
104 Services and to any other state agency or official required to be notified
105 by law that the recommended finding of abuse or neglect has been
106 upheld, and shall disclose to such agency or official only such
107 information as required to be disclosed pursuant to any provision of
108 the general statutes.

109 (h) Not later than December 1, 2005, the commissioner shall notify,
110 by certified mail, all individuals against whom findings of abuse or
111 neglect were substantiated prior to May 1, 2000, of the existence of the
112 substantiated findings, the inclusion of their names on the registry and
113 of information regarding the potential consequences of their inclusion
114 on the registry and right to appeal pursuant to the provision of this
115 section.

116 Sec. 2. Section 17a-101g of the general statutes is repealed and the
117 following is substituted in lieu thereof (*Effective October 1, 2005*):

118 (a) Upon receiving a report of child abuse or neglect, as provided in
119 sections 17a-101a to 17a-101c, inclusive, or section 17a-103, in which
120 the alleged perpetrator is (1) a person responsible for such child's
121 health, welfare or care, (2) a person given access to such child by such
122 responsible person, or (3) a person entrusted with the care of a child,
123 the Commissioner of Children and Families, or the commissioner's
124 designee, shall cause the report to be classified and evaluated
125 immediately. If the report contains sufficient information to warrant an
126 investigation, the commissioner shall make the commissioner's best
127 efforts to commence an investigation of a report concerning an
128 imminent risk of physical harm to a child or other emergency within
129 two hours of receipt of the report and shall commence an investigation
130 of all other reports within seventy-two hours of receipt of the report.
131 The department shall complete any such investigation within thirty
132 calendar days of receipt of the report. If the report is a report of child
133 abuse or neglect in which the alleged perpetrator is not a person
134 specified in subdivision (1), (2) or (3) of this subsection, the
135 Commissioner of Children and Families shall refer the report to the
136 appropriate local law enforcement authority for the town in which the
137 child resides or in which the alleged abuse or neglect occurred.

138 (b) The investigation shall include a home visit at which the child
139 and any siblings are observed, if appropriate, a determination of the
140 nature, extent and cause or causes of the reported abuse or neglect, a
141 determination of the person or persons suspected to be responsible for
142 such abuse or neglect, the name, age and condition of other children
143 residing in the same household and an evaluation of the parents and
144 the home. The report of such investigation shall be in writing. The
145 investigation shall also include, but not be limited to, a review of
146 criminal conviction information concerning the person or persons
147 alleged to be responsible for such abuse or neglect and previous
148 allegations of abuse or neglect relating to the child or other children

149 residing in the household or relating to family violence. After an
150 investigation into a report of abuse or neglect has been completed and
151 the commissioner has reasonable cause to believe that abuse or neglect,
152 as defined in section 46b-120, as amended by this act, has occurred, a
153 recommended finding shall be issued. Notwithstanding the provisions
154 of subsection (f) of section 17a-28, except in cases of death, sexual
155 abuse or serious physical abuse of a child as provided in sections 17a-
156 101b and 17a-101j, and except as provided in section 17a-101i with
157 reference to abuse of a child that results in death, sexual abuse or
158 serious physical abuse, no entry of the recommended finding shall be
159 made on the child abuse or neglect registry nor shall any information
160 concerning the recommended finding be disclosed by the
161 commissioner to any other state agency until the exhaustion or waiver
162 of all administrative appeals available to the alleged perpetrator as
163 provided in section 17a-101k, as amended by this act.

164 (c) If the Commissioner of Children and Families, or his designee,
165 has probable cause to believe that the child or any other child in the
166 household is in imminent risk of physical harm from his surroundings
167 and that immediate removal from such surroundings is necessary to
168 ensure the child's safety, the commissioner, or his designee, shall
169 authorize any employee of the department or any law enforcement
170 officer to remove the child and any other child similarly situated from
171 such surroundings without the consent of the child's parent or
172 guardian. The commissioner shall record in writing the reasons for
173 such removal and include such record with the report of the
174 investigation conducted under subsection (b) of this section.

175 (d) The removal of a child pursuant to subsection (c) of this section
176 shall not exceed ninety-six hours. During the period of such removal,
177 the commissioner, or his designee, shall provide the child with all
178 necessary care, including medical care, which may include an
179 examination by a physician or mental health professional with or
180 without the consent of the child's parents, guardian or other person
181 responsible for the child's care, provided reasonable attempts have

182 been made to obtain consent of the child's parents or guardian or other
183 person responsible for the care of such child. During the course of a
184 medical examination, a physician may perform diagnostic tests and
185 procedures necessary for the detection of child abuse or neglect. If the
186 child is not returned home within such ninety-six-hour period, with or
187 without protective services, the department shall proceed in
188 accordance with section 46b-129.

189 Sec. 3. Section 46b-120 of the general statutes is repealed and the
190 following is substituted in lieu thereof (*Effective October 1, 2005*):

191 (a) The terms used in this chapter shall, in its interpretation and in
192 the interpretation of other statutes, be defined as follows: (1) "Child"
193 means any person under sixteen years of age and, for purposes of
194 delinquency matters, "child" means any person (A) under sixteen years
195 of age, or (B) sixteen years of age or older who, prior to attaining
196 sixteen years of age, has violated any federal or state law or municipal
197 or local ordinance, other than an ordinance regulating behavior of a
198 child in a family with service needs, and, subsequent to attaining
199 sixteen years of age, violates any order of the Superior Court or any
200 condition of probation ordered by the Superior Court with respect to
201 such delinquency proceeding; (2) "youth" means any person sixteen or
202 seventeen years of age; (3) "youth in crisis" means any youth who,
203 within the last two years, (A) has without just cause run away from the
204 parental home or other properly authorized and lawful place of abode,
205 (B) is beyond the control of parents, guardian or other custodian, or (C)
206 has four unexcused absences from school in any one month or ten
207 unexcused absences in any school year; (4) "abused" means that a child
208 or youth (A) has been inflicted with physical injury or injuries other
209 than by accidental means, or (B) has injuries that are at variance with
210 the history given of them, or (C) is in a condition that is the result of
211 maltreatment such as, but not limited to, malnutrition, sexual
212 molestation or exploitation, deprivation of necessities, emotional
213 maltreatment or cruel punishment, except that nonaccidental injury
214 resulting from bona fide disciplinary efforts of a parent or guardian

215 shall not be considered abuse if such disciplinary efforts were
216 reasonable under the circumstances, considering the child's family
217 situation, the age and mental and physical condition of the child and
218 the matter for which the child was being disciplined; (5) a child may be
219 found "mentally deficient" who, by reason of a deficiency of
220 intelligence that has existed from birth or from early age, requires, or
221 will require, for his protection or for the protection of others, special
222 care, supervision and control; (6) a child may be convicted as
223 "delinquent" who has violated (A) any federal or state law or
224 municipal or local ordinance, other than an ordinance regulating
225 behavior of a child in a family with service needs, (B) any order of the
226 Superior Court, or (C) conditions of probation as ordered by the court;
227 (7) a child or youth may be found "dependent" whose home is a
228 suitable one for the child or youth, save for the financial inability of
229 parents, parent, guardian or other person maintaining such home, to
230 provide the specialized care the condition of the child or youth
231 requires; (8) "family with service needs" means a family that includes a
232 child who (A) has without just cause run away from the parental home
233 or other properly authorized and lawful place of abode, (B) is beyond
234 the control of parent, parents, guardian or other custodian, (C) has
235 engaged in indecent or immoral conduct, (D) is a truant or habitual
236 truant or who, while in school, has been continuously and overtly
237 defiant of school rules and regulations, or (E) is thirteen years of age or
238 older and has engaged in sexual intercourse with another person and
239 such other person is thirteen years of age or older and not more than
240 two years older or younger than such child; (9) a child or youth may be
241 found "neglected" who (A) has been abandoned, or (B) is being denied
242 proper care and attention, physically, educationally, emotionally or
243 morally, or (C) is being permitted to live under conditions,
244 circumstances or associations injurious to the well-being of the child or
245 youth, or (D) has been abused. A finding of neglect shall not be made
246 with respect to subparagraph (B) or (C) of this subdivision if the denial
247 of proper care or attention or the permission to live under the injurious
248 conditions, circumstances or associations are caused by a lack of access

249 to health care, employment or social services that can be rectified by a
250 referral to appropriate employment, social or disability support
251 services. The Commissioner of Children and Families shall apply a
252 standard of reasonableness when considering an allegation of neglect
253 and shall take into account the age and physical and mental condition
254 of the child and the child's family situation; (10) a child or youth may
255 be found "uncared for" who is homeless or whose home cannot
256 provide the specialized care that the physical, emotional or mental
257 condition of the child requires. For the purposes of this section, the
258 treatment of any child by an accredited Christian Science practitioner
259 in lieu of treatment by a licensed practitioner of the healing arts, shall
260 not of itself constitute neglect or maltreatment; (11) "delinquent act"
261 means the violation of any federal or state law or municipal or local
262 ordinance, other than an ordinance regulating the behavior of a child
263 in a family with service needs, or the violation of any order of the
264 Superior Court; (12) "serious juvenile offense" means (A) the violation
265 by a child, including attempt or conspiracy to violate sections 21a-277,
266 21a-278, 29-33, 29-34, 29-35, 53-21, 53-80a, 53-202b, 53-202c, 53-390 to
267 53-392, inclusive, 53a-54a to 53a-57, inclusive, 53a-59 to 53a-60c,
268 inclusive, 53a-70 to 53a-71, inclusive, 53a-72b, 53a-86, 53a-92 to 53a-94a,
269 inclusive, 53a-95, 53a-101, 53a-102a, 53a-103a, 53a-111 to 53a-113,
270 inclusive, subdivision (1) of subsection (a) of section 53a-122,
271 subdivision (3) of subsection (a) of section 53a-123, 53a-134, 53a-135,
272 53a-136a, 53a-166, 53a-167c, subsection (a) of section 53a-174, 53a-196a,
273 53a-211, 53a-212, 53a-216 or 53a-217b, or (B) running away, without
274 just cause, from any secure placement other than home while referred
275 as a delinquent child to the Court Support Services Division or
276 committed as a delinquent child to the Commissioner of Children and
277 Families for a serious juvenile offense; (13) "serious juvenile offender"
278 means any child convicted as delinquent for commission of a serious
279 juvenile offense; (14) "serious juvenile repeat offender" means any
280 child charged with the commission of any felony if such child has
281 previously been convicted delinquent at any age for two violations of
282 any provision of title 21a, 29, 53 or 53a that is designated as a felony;

283 (15) "alcohol-dependent child" means any child who has a
 284 psychoactive substance dependence on alcohol as that condition is
 285 defined in the most recent edition of the American Psychiatric
 286 Association's "Diagnostic and Statistical Manual of Mental Disorders";
 287 and (16) "drug-dependent child" means any child who has a
 288 psychoactive substance dependence on drugs as that condition is
 289 defined in the most recent edition of the American Psychiatric
 290 Association's "Diagnostic and Statistical Manual of Mental Disorders".
 291 No child shall be classified as drug dependent who is dependent (A)
 292 upon a morphine-type substance as an incident to current medical
 293 treatment of a demonstrable physical disorder other than drug
 294 dependence, or (B) upon amphetamine-type, ataractic,
 295 barbiturate-type, hallucinogenic or other stimulant and depressant
 296 substances as an incident to current medical treatment of a
 297 demonstrable physical or psychological disorder, or both, other than
 298 drug dependence. Nothing in this chapter shall be construed to be in
 299 derogation of the rights of parents or guardians to punish children to
 300 the extent otherwise permitted by law.

301 (b) The Commissioner of Children and Families shall adopt
 302 regulations, in accordance with the provisions of chapter 54, to
 303 implement the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	17a-101k
Sec. 2	October 1, 2005	17a-101g
Sec. 3	October 1, 2005	46b-120

KID*Joint Favorable C/R***HS**